

# **SAN BENITO COUNTY ASSESSMENT PRACTICES SURVEY**

**MARCH 1998**

---

## **CALIFORNIA STATE BOARD OF EQUALIZATION**

JOHAN KLEHS, MEMBER, HAYWARD  
DEAN ANDAL, MEMBER, STOCKTON  
ERNEST J. DRONENBURG, JR., MEMBER, SAN DIEGO  
KATHLEEN CONNELL, MEMBER, SACRAMENTO  

---

JOHN CHIANG, ACTING MEMBER, LOS ANGELES

FIRST DISTRICT  
SECOND DISTRICT  
THIRD DISTRICT  
STATE CONTROLLER  
FOURTH DISTRICT

---

E. L. SORENSEN, JR., EXECUTIVE DIRECTOR



## **FOREWORD**

The county assessor is responsible for the assessment of all taxable property within the county, except state-assessed property. The assessor's responsibilities include such things as (1) discovering and taking inventory of all property within the county, (2) determining the property's eligibility for a full or partial exemption from assessment, (3) determining the proper taxpayer who is usually but not always the owner, (4) determining the property's location for assessment purposes, and (5) determining the taxable value of the property in accordance with California property tax law.

Determining taxable value is usually the most difficult and subjective of the assessor's duties. In addition to the inherently subjective nature of the appraisal process, the assessor has to determine whether the taxable value is to be based on current fair market value or on a value base set earlier. When there is construction activity on a property, the assessor has to determine whether the construction is to be assessed or whether it is excluded from assessment under the law. When there is an ownership transaction, the assessor has to determine whether the law requires a reassessment of the property or whether the property must continue to be assessed according to the existing value base.

The factors discussed above, as well as others not mentioned here, contribute to making local property tax assessment a difficult tax program to administer. It is also a very important program since the property tax is one of the most important sources of revenue for local governments and public schools. For property owners it is a major annual tax burden, and, since it is normally paid in one or two large installments rather than many small increments, it tends to be more visible than most other taxes. Accordingly, proper administration of the property tax assessment program is vitally important both to the public agencies that rely on the tax and to the people who have to pay the tax.

Although the primary responsibility for local property tax assessment is a function of county government, the State Board of Equalization (BOE) has a number of duties in the property tax field imposed by the State Constitution and the Legislature. One of these duties, performed by the BOE's County Property Tax Division (CPTD), is to conduct periodic surveys of local assessment practices and report the findings and recommendations that result from the survey.

Assessment practices surveys are authorized by Government Code sections 15640 et seq. These code sections require each county's assessment practices to be the subject of such a survey at five year intervals. The surveys must include research in the assessor's office to determine the adequacy of the procedures and practices employed by the assessor in the assessment of taxable property, compliance with state law and regulations, and other required duties. The surveys may include a sampling of assessments from the local assessment roll to determine eligibility for the cost reimbursement authorized by Revenue and Taxation Code section 75.60.

The assessor was provided a draft of this report and given an opportunity to file a written response to the findings, recommendations, and suggestions contained in the report. This report, the county assessor's response and the CPTD's comments regarding the response, constitute the final survey report which is distributed to the Governor, the Attorney General, the State Legislature; and the county's Board of Supervisors, Grand Jury, and Assessment Appeals Board.

Fieldwork for this survey report of the San Benito County Assessor's Office was completed by the CPTD during November of 1996. This report does not reflect changes implemented by the assessor after the field work was completed.

The Honorable Arnold R. Fontes, the San Benito County Assessor, and his staff gave us their complete cooperation during the assessment practices survey. We gratefully acknowledge their patience and good spirit during the interruption of their normal work routine.

William Jackson, Chief  
County Property Tax Division  
Department of Property Taxes  
California State Board of Equalization  
March 1998

## COUNTY PROPERTY TAX DIVISION SURVEY GROUP

### San Benito County

Survey Program Director:  
J. Thomas McClaskey

Principal Property Appraiser

Survey Team Supervisor:  
Gerald A. Trueblood

Supervising Property Appraiser

Survey Team Leader:  
David A. Lucero

Senior Specialist Property Auditor  
Appraiser

Survey Team:  
Raymond Y. Tsang  
Robert C. Curry  
Dan Ortland  
Rodney J. Miyatake  
Teresa M. Brink

Associate Property Auditor Appraiser  
Associate Property Appraiser  
Associate Property Appraiser  
Associate Property Appraiser  
Tax Technician II

## TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION, SUMMARY, RECOMMENDATIONS AND SUGGESTIONS .....	1
A. Introduction .....	1
B. Summary .....	2
1. Findings .....	2
2. Overview of the San Benito County Assessment Roll .....	3
C. Recommendations and Suggestions .....	5
II. ADMINISTRATIVE TOPICS .....	9
A. Assessment Appeals .....	9
B. Roll Corrections .....	10
C. Racehorses .....	12
D. Low Value Resolution .....	12
E. Appraisal Documentation .....	13
F. Disaster Relief .....	14
III. REAL PROPERTY ASSESSMENT .....	15
A. The Appraisal Program .....	15
1. Change of Ownership .....	15
a. Overview .....	15
b. Legal Entity Ownership Program (LEOP) .....	16
c. Inflation Factors .....	17
2. New Construction .....	18
a. Overview .....	18
b. Assessment of New Construction .....	18
B. Special Property Types .....	23
1. California Land Conservation Act (CLCA) Properties .....	23
2. Taxable Government Owned Properties .....	28
3. Possessory Interests .....	30
C. Special Assessment Procedures .....	32
1. Supplemental Assessments .....	32
2. Declines in Value .....	32
IV. PERSONAL PROPERTY ASSESSMENT .....	34
A. Overview .....	34
B. Business Property Assessment .....	34

TABLE OF CONTENTS  
(Continued)

C.	Audit Program .....	34
1.	Mandatory Audits.....	35
2.	Interest Calculations .....	35
3.	Audit Checklist.....	35
D.	Business Property Valuation .....	36
1.	Equipment Index Factors.....	36
2.	Estimated Assessments .....	37
3.	Supplemental Assessments of Leasehold Improvements.....	37
4.	Classification.....	38
E.	Nonbusiness Property Valuation .....	39
1.	Vessels.....	39
2.	Manufactured Homes .....	39
APPENDIX		
	The Assessment Sampling Program.....	43

## I. INTRODUCTION, SUMMARY, RECOMMENDATIONS AND SUGGESTIONS

### A. INTRODUCTION

Regardless of the size of the county, the assessment of property for tax purposes is a formidable task. Proper administration of this task is vital both to government agencies in San Benito County and to taxpayers. Because the job is so important and so complex, it is necessary for an independent agency such as the State Board of Equalization (BOE) to make periodic reviews of the assessor's operation. This survey report is the result of such a review of the San Benito County Assessor's Office by the BOE's County Property Tax Division (CPTD).

Government Code section 15640, in part, mandates that the State Board of Equalization shall:

(a). . . make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.... (c) The survey may include a sampling of assessments from the local assessment rolls sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.... (f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

It is apparent from this language that the Legislature envisioned the BOE's office research and appraisal sampling to be parts of a single, connected process, i.e., the evaluation of how well the county assessor is carrying out his or her sworn duty to properly assess all taxable property on the local tax roll. This evaluation is to be based on office research, or in certain circumstances, office research and actual field appraisals of sampled roll items. The way in which the office research and the sampling process is carried out was developed after consultation with the county assessors by the staff of the BOE's Property Tax Department.

This survey was conducted according to the method mandated by Government Code section 15642. Following legislative direction, our survey primarily emphasizes issues that involve revenue generation or statutory mandate. This report is the culmination of a review of the San Benito County Assessor's operation that consisted of the CPTD's office research that examined current practices and procedures in key areas to see if significant problems exist in the assessor's operation. Finally, the survey report offers positive courses of action, presented here as recommendations and suggestions, to help the assessor resolve problems identified in his program.

Revenue and Taxation Code section 75.60 requires that the BOE certify a county as eligible for the recovery of costs associated with administering supplemental assessments. In order for a county to qualify as an eligible county, it must achieve an average assessment level that is not less than 95 percent of the amount required by statute as determined by the BOE through its assessment sampling program. In addition, for sampling for the 1996 lien date and subsequent lien dates, the sum of the absolute values of the differences can not exceed 7.5 percent of the legally required amount.

Based upon our sampling of the 1994-95 fiscal year assessment roll, the BOE certified San Benito County as an eligible county. This indicates that its assessment program is in substantial compliance with the law. The recommendations and suggestions contained in this report are based on our analysis of data which indicates that statutory violations, under-or-over assessments, or unacceptable appraisal practices may be occurring in specific areas.

## B. SUMMARY

### 1. Findings

Our review of the San Benito County Assessor's practices found the assessor in substantial conformity with both legal requirements and generally accepted appraisal practices. There were several areas in which this county has exemplary practices.

The change in ownership process is both timely and accurate. The assessor achieves a high level of taxpayer compliance with the requirement for change in ownership reporting. In this county it rarely happens that a preliminary change in ownership report or a change in ownership statement is not received for a transfer. The information contained in these reports are vital for an efficient and effective reappraisal program for changes in ownership.

The procedure for implementing and monitoring value changes for properties with market value below factored base year values assures that taxpayers entitled to such relief receive it. The procedure is very meticulous in its tracking capability.

The assessor not only has an up-to-date mandatory audit program but also has a nonmandatory audit program. Because of the shortage of resources it is rare for a small county assessor to have a nonmandatory audit program.

The procedure for providing relief for victims of disasters is also very effective thus assuring that taxpayers entitled to such relief receive it. However we do suggest that the assessor's staff receive copies of fire reports from the various fire fighting agencies in the county.



## 2. Overview of the San Benito County Assessment Roll

The following information utilizes the BOE's A Report on Budgets, Workloads and Assessment Appeals Activities in California Assessor's Offices, 1994-95 dated May 1996. That document reports a compilation of data originating from an annual questionnaire which is sent to all assessors by the BOE's Policy, Planning and Standards Division (PPSD).

The purpose of the following information is to compare the San Benito County Assessor's Office's budget and workload with other counties that are similar in the number of assessments. We caution the reader that the budget and staffing of the San Benito Assessor's Office, or that of the other listed counties, are not assumed to be adequate or proper. These comparisons are merely meant to illustrate how counties compare in various measures of workload or costs. No two counties are exactly alike and a variety of factors can greatly affect individual budget and workload comparisons.

The primary criteria used in choosing comparables for the San Benito County Assessor's Office is total local roll units. In other words, counties close in total number of roll units would presumably need similarly sized staff and budget. Of course property type mix, ratio of rural to urban uses, and county size are also important influences, but in general total local roll units is considered a valid starting point.

An element not considered in selecting comparable counties is the rate at which the county population is growing; this is particularly important for San Benito County because its population growth rate far exceeds the counties to which it is being compared. This population growth is followed by growth in the number of assessments which puts a burden on an assessor with static resources. The San Benito assessor's staff has one and a half fewer persons in fiscal year 1995-96 compared to fiscal year 1989-90. Despite this decrease in staff and increase in assessment activity, the assessor has been able to maintain an overall high quality assessment operation.

### Total Roll Units and Net Roll Value

<u>County</u>	<u>Total Local Roll Units</u>	<u>Total Secured Roll Units</u>	<u>Total Unsecured Roll Units</u>	<u>Total Net Roll Value</u>
Inyo	19,382	17,488	1,894	\$2,513,494,000
<b>San Benito</b>	<b>18,070</b>	<b>15,932</b>	<b>2,138</b>	<b>\$2,384,108,000</b>
Del Norte	17,105	15,635	1,380	\$ 895,028,000
Glenn <sup>1</sup>	17,258	15,439	1,819	\$1,377,402,000
Mono	16,223	14,681	1,542	\$1,889,899,000

---

<sup>1</sup> 1993-94 data; no data provided for 1994-95.

### Assessor's Budget vs. Assessment Roll

Net budget is assessor's expenditures less fees from others. Budget per roll dollar is the assessor's cost for producing one dollar of general fund revenue.

<u>County</u>	<u>Net Budget</u>	<u>Budget Per Roll Unit</u>	<u>Budget Per Roll Dollar</u>	<u>Roll Value Per Budget Dollar</u>
Inyo	\$758,142	\$39.12	\$0.00030	\$3,315
<b>San Benito</b>	<b>\$307,479<sup>2</sup></b>	<b>\$17.02</b>	<b>\$0.00013</b>	<b>\$7,754</b>
Del Norte	\$401,322	\$23.59	\$0.00045	\$2,230
Glenn <sup>3</sup>	\$429,401	\$24.88	\$0.00031	\$3,207
Mono	\$451,564	\$27.83	\$0.00024	\$4,185

### Staffing Allocations

<u>County</u>	<u>Assessor and Other Managers</u>	<u>Real Property Appraiser</u>	<u>Business Property Appraiser</u>	<u>Total Staff</u>
Inyo	2	2	1	11
<b>San Benito</b>	<b>1</b>	<b>4</b>	<b>1<sup>4</sup></b>	<b>12</b>
Del Norte	3	2	1	9
Glenn <sup>5</sup>	1	5	N/A <sup>6</sup>	11
Mono	1	5	1	11

### Budgets and Staffing History

<u>Fiscal Year</u>	<u>Positions</u>	<u>Adopted Budget</u>
1989-90	13.5	\$465,917
1990-91	13.5	\$503,146
1991-92	13.5	\$519,999
1992-93	11	\$474,596
1993-94	10	\$435,832
1994-95	12	\$490,615
1995-96	12	\$532,505

---

<sup>2</sup> The San Benito County Assessor had fee revenue equal to 37 percent of gross budget.

<sup>3</sup> 1993-94 data; no data provided for 1994-95.

<sup>4</sup> At time of this survey, San Benito County has employed one additional Business Property Appraiser.

<sup>5</sup> 1993-94 data; no data provided for 1994-95.

<sup>6</sup> Reports no employee with this pay classification.

### Total Workload Per Staff Member

<u>County</u>	<u>Total Roll Units Per Manager</u>	<u>Secured Roll Units Per Appraiser</u>	<u>Unsecured Roll Units Per Auditor Appraiser</u>	<u>Total Roll Value Per Staff Member</u>
Inyo	9,691	8,744	1,894	\$228,499,000
<b>San Benito</b>	<b>18,070</b>	<b>3,983</b>	<b>2,138</b>	<b>\$198,676,000</b>
Del Norte	5,672	7,818	1,380	\$ 99,448,000
Glenn	17,258	3,088	N/A	\$125,218,000
Mono	16,223	2,936	1,542	\$171,809,000

### Real Property Workload

<u>County</u>	<u>All Transfers</u>	<u>New Construction</u>	<u>Declines In Value</u>	<u>Miscellaneous Roll Changes</u>
Inyo	755	308	937	231
<b>San Benito</b>	<b>2,273</b>	<b>1,175</b>	<b>1,680</b>	<b>1,233</b>
Del Norte	2,727	824	36	763
Glenn	733	N/A	800	N/A
Mono	1,154	322	1,539	1,598

### Business Property Workload

<u>County</u>	<u>Boats</u>	<u>General Aircraft</u>	<u>Direct Billing</u>	<u>Property Statements</u>	<u>Field Appraisal</u>	<u>Total of Last Four Years' Audit</u>
Inyo	453	73	267	1,938	174	32
<b>San Benito</b>	<b>554</b>	<b>175</b>	<b>252</b>	<b>2,058</b>	<b>200</b>	<b>77</b>
Del Norte	512	38	172	1,027	243	32
Glenn	440	136	200	2,224	N/A	N/A
Mono	213	30	500	677	100	10

## C. RECOMMENDATIONS AND SUGGESTIONS

The following is a summary of the formal recommendations and suggestions contained in this report, arrayed in the order that they appear in the text. The page is noted where each recommendation or suggestion and its supporting text may be found.

Our recommendations are reserved for situations where one or more of the following conditions exist:

- Violations of state constitutional provisions, statutes, BOE regulations or case law are present.

- Existing assessment practices result in the generation of an improper amount of property tax revenue.
- Existing appraisal practices do not conform to generally accepted appraisal theory.

### **RECOMMENDATIONS**

- RECOMMENDATION 1: Cite the proper Revenue and Taxation Code sections when making corrections to the assessment roll. (Page 11)
- RECOMMENDATION 2: Correct the method of calculating factored base year values by: (1) annually adjusting base year values by the BOE announced inflation factor; and (2) applying the inflation factor to the base year value of real properties and manufactured homes which are revalued because of a change in ownership or new construction that occurs between lien date and June 30 of each calendar year. (Page 17)
- RECOMMENDATION 3: Revise procedures for assessing new construction by: (1) documenting that valuation factors are reviewed annually and developing more discrete valuation factors; (2) utilizing historical costs, published cost guides, and the comparative sales approach as alternate valuation methods; (3) including landscaping, site preparation, and grading costs in the value of newly constructed properties; and (4) updating construction in progress values on each lien date by revaluing the entire construction in progress. (Page 19)
- RECOMMENDATION 4: Revise the CLCA computerized appraisal program to: (1) deduct a charge for return on and of investment in non-living improvements; and (2) deduct a capital replacement allowance for irrigation wells that contribute to the income being capitalized. (Page 24)
- RECOMMENDATION 5: Revise the CLCA assessment program to: (1) use a capitalization premise appropriate to the shape of the income stream when valuing restricted orchards and vineyards; and (2) include proper treatment of home sites and improvements to land. (Page 25)
- RECOMMENDATION 6: Consider article XIII A land values when determining the taxable value of taxable government-owned lands. (Page 29)
- RECOMMENDATION 7: Revise the possessory interest assessment program by: (1) processing supplemental assessments for all taxable possessory interests that have changed ownership; and (2) assessing all possessory interests. (Page 30)

- RECOMMENDATION 8: Forward only the escaped value to the county auditor for calculation of the change in the tax liability, interest, and penalties; include the statutory citation that authorizes the escape assessment. (Page 35)
- RECOMMENDATION 9: Use the equipment index factors as recommended in Assessors' Handbook Section 581. (Page 36)
- RECOMMENDATION 10: Classify certain service station improvements as fixtures. (Page 38)
- RECOMMENDATION 11: Seek to have the BOE designate the Vessel Owners Report as a prescribed property statement for pleasure boats. (Page 39)
- RECOMMENDATION 12: Revise manufactured home assessments by: (1) making adjustments for site influence to selling prices of manufactured homes; (2) developing a program to periodically compare the factored base year values and the current market values of all assessable manufactured homes; and (3) assessing all taxable manufactured home accessories. (Page 40)

### **SUGGESTIONS**

- SUGGESTION 1: Timely notify the tax collector of taxpayers receiving the Annual Racehorse Tax Return forms. (Page 12)
- SUGGESTION 2: Increase documentation on appraisal records. (Page 13)
- SUGGESTION 3: Obtain fire reports from all fire departments within the county. (Page 14)
- SUGGESTION 4: Utilize a mailed questionnaire to solicit historical costs of new construction. (Page 20)
- SUGGESTION 5: Revise building permit procedures by: (1) requesting that copies of all well, septic tank, and mechanical permits be sent to the assessor; and (2) record these types of building permits on appraisal records. (Page 22)
- SUGGESTION 6: Revise the grazing and dry farm land appraisal procedures to: (1) indicate animal unit carrying capacity for the total ranch unit and on each individual grazing land parcel; and (2) create a production, income and expense questionnaire for grazing and dry farm land owners. (Page 27)

- SUGGESTION 7: Request funding for current aerial photographs. (Page 28)
- SUGGESTION 8: Create formal written audit procedures and require the use of an audit checklist in every audit. (Page 36)
- SUGGESTION 9: Audit or visit taxpayers for whom estimated assessments have been enrolled for three or more consecutive years because of the taxpayers' failure to file the required property statements. (Page 37)
- SUGGESTION 10: Develop and maintain a written procedure for the supplemental assessment of structural additions that are leasehold improvements. (Page 38)

## II. ADMINISTRATIVE TOPICS

### A. ASSESSMENT APPEALS

Beginning in 1990, real property market values throughout California declined sharply from inflated levels that had become the norm. Most affected residential properties in San Benito County have been effectively reviewed for declines in market value below the factored base year value and their assessments reduced by an informal review process. Except for one instance, properties formally appealed consist of more complex commercial, industrial, rural, or other income producing properties.

In San Benito County the assessment appeals workload varies, but rarely exceeds 60 appeals in any given year.<sup>7</sup> The number of assessment appeals have ranged from 5 in 1992 to 58 in 1995. The relatively low number of assessment appeals can be attributed in part to the effective manner, mentioned elsewhere in this report, in which the assessor's staff handled declines in market value below factored base year value, particularly in residential properties.

Local assessment appeal cases are usually handled by the appraiser assigned to the geographic area for the appealed real property parcel. Appeal cases for the more complex commercial and industrial properties, however, are handled by the assessor, the chief appraiser, and the auditor appraiser.

In San Benito County, the elected county board of supervisors sit as the local board of equalization. The county counsel represents both the board of equalization as well as the assessor. This duality of representation sometimes causes problems and in some instances may make the relationship unworkable.

In a recent action, the San Benito County Board of Supervisors decided to resolve a long-standing assessment dispute arising from an assessment appeal contesting the 1986-87 assessment. At the time of the original appeal the board of supervisors, acting as a board of equalization, rejected the arguments of the applicant, and upheld the assessor's base year valuation that was based on the property's 1984 sale price. In 1991, pursuant to Revenue and Taxation Code section 5096, the taxpayer filed an action in San Benito County Superior Court for refund of taxes erroneously collected.

In July, 1996, the board of supervisors, acting as a board of supervisors, and not as an appeal authority, reversed the decision they previously made as a board of equalization and approved a stipulated agreement with the applicant in which the base year value of the property was significantly reduced from the assessor's base year valuation. Additionally, the property owner was to receive a refund of taxes paid for each year after the purchase date as well as interest on the refunds.

---

<sup>7</sup> There were no hearings scheduled during CPTD Survey fieldwork. We were unable to attend a presentation of an AAB case.

The assessor protested the action taken by the board of supervisors, stating that the portion of the stipulated judgment which resets the base year value is invalid because it exceeds the legal authority of the board of supervisors, and that the board has no authority to direct the county auditor to pay a refund as set forth in the judgment. The assessor also asserted that the county counsel had a conflict of interest because his signature appeared on the board of supervisor's stipulated agreement and that he had endorsed the order. The assessor then requested funds to hire outside counsel, pointing to Government Code section 31000.6 which states in part:

...Upon request of the assessor of the county, the board of supervisors shall contract with and employ legal counsel to assist the assessor in the performance of his duties in any case where the county counsel or the district attorney would have a conflict of interest in representing the assessor...

The board of supervisors considered the assessor's request for the appointment of outside counsel and denied the assessor's request. County counsel concurred that while there was indeed a conflict of interest, the assessor had not satisfied the code section's requirement that outside counsel was required for the assessor to perform his duties. In doing so, the board of supervisors questioned the assessor's basis for his declared duty to contest the board's action. The assessor subsequently filed a petition for appointment of legal counsel which was granted in Superior Court. These issues had not been resolved at the completion of the survey field work

## B. ROLL CORRECTIONS

The Revenue and Taxation Code provides several methods by which an assessment placed on the local roll can be changed after the assessor has delivered the roll to the auditor. These procedures were written into the law to protect the rights of the taxpayers and to provide checks and balances on the assessment.

The BOE annually publishes a report on budgets, workloads, and assessment appeals activities in California assessors' offices. The 1996 report, which pertained to the 1994-95 assessment year, includes a listing of the total roll corrections for each county in California. We compared San Benito County to the following counties that are similar based on the total number of assessments in order to judge roll correction activity:

<u>County</u>	<u>Total Secured Roll Units</u>	<u>Total Unsecured Roll Units</u>	<u>Total Local Roll Units</u>	<u>Total Roll Corrections</u>
<b>San Benito</b>	<b>15,932</b>	<b>2,138</b>	<b>18,070</b>	<b>396</b>
Del Norte	15,635	1,380	17,015	432
Inyo	17,488	1,894	19,382	183



Roll changes are generally made under the following statutory codes: (1) section 4831, which provides for roll corrections due to errors in fact and value judgments that reflect declines in market value below factored base year value; these corrections must be made within one year after the making of the assessment that is being corrected; and (2) sections 531, 531.1, and 531.2, which identify the reasons for escaped assessments.

For the 1995-96 roll year, San Benito County made 366 roll corrections. During the five year period, beginning with 1991-92, the San Benito County assessor's staff has averaged roughly 438 roll changes per year. The totals from year to year have shown a fairly consistent pattern as indicated below:

<u>Roll Year</u>	<u>Total Roll Changes</u>
1991-92	426
1992-93	434
1993-94	570
1994-95	396
1995-96	366

Although the San Benito County Assessor's Office lacks a written procedure manual, they do have a policy for handling roll changes. According to the chief appraiser for San Benito County, all roll changes are initiated by the individual appraiser who has the responsibility for the area in which the particular property is located. Each request for roll change is sent to the chief appraiser for his approval. If the reason for the roll change meets the proper requirements and the code section cited appears to be proper, the request is then sent to the appropriate assessment clerk for typing and verification of the code citation. For final approval the request must have the signatures of the assessor, county counsel, and the board of supervisors if the amount is over \$100,000. When all requirements have been met the request is sent to the auditor's office for recomputation of taxes and a copy of the notification is sent to the taxpayer.

RECOMMENDATION 1: Cite the proper Revenue and Taxation Code sections when making corrections to the assessment roll.

Our review of the assessor's records indicates that the assessor's staff occasionally cited improper Revenue and Taxation Code sections when preparing roll corrections. Examples of erroneous code citations appear to be centered on the following issues:

- 1) Section 275 (late filing of homeowners' exemption; partial cancellation of tax); assessor cited section 4831 (incorrect entries; transfers to unsecured roll).
- 2) Section 270 (late filing of exemption claim; partial cancellation of tax); assessor cited section 214 (welfare exemption).

- 3) Section 5096 (refunds permissible); assessor cited 4831 (incorrect entries; transfers to unsecured roll).

Although these errors in code citations may appear to be minor discrepancies, we recommend the assessor's staff review the proper code citations as provided in the Property Taxes Law Guide and by reviewing Assessor's Handbook Section 271 Assessment Roll Procedures. By citing the proper Revenue and Taxation Code section, the assessor's staff can eliminate any confusion and inconsistencies in future roll changes.

#### C. RACEHORSES

Since 1973, racehorses domiciled in California have been subject to an annual tax in lieu of the ad valorem property tax. The provisions of this tax are contained in section 5701 - 5790 of the Revenue and Taxation Code. Specific procedures and forms are prescribed by Property Tax Rules 1045 and 1046.

Property Tax Rule 1045 (a)(2) requires that the assessor maintain a record of those persons believed to be liable for the annual racehorse tax and to whom the assessor has furnished copies of the tax form. The tax collector must be furnished with a copy of this record within 10 days of the date copies of the forms are furnished to taxpayers.

SUGGESTION 1: Timely notify the tax collector of taxpayers receiving the Annual Racehorse Tax Return forms.

In San Benito County, historically only three racehorse tax return forms are mailed annually to those persons believed to be liable for the annual racehorse tax. We found in our review that a record is maintained by the assessor, but a copy is not given to the tax collector in a timely manner. Thus, the tax collector is not aware of who can reasonably be expected to file returns in a timely manner. We suggest that the assessor timely provide the tax collector with a copy of the record used to mail out racehorse tax forms.

#### D. LOW VALUE RESOLUTION

The costs of making assessments and collecting taxes for different classes of property are often similar. Revenue and Taxation Code section 155.20 authorizes the county boards of supervisors to adopt resolutions exempting low-value real and personal property from taxation. A low-value property exemption resolution exempts real and personal property with a full value so low that, if not exempt, the total taxes, special assessments, and applicable subventions on that property would amount to less than the cost of assessing and collecting them.

Section 155.20 was amended effective January 1, 1996 to expand the scope of the exemption to real and personal property valued at \$5,000 or less. The exemption of accessories on licensed manufactured homes remains at the \$5,000 level as set effective January 1, 1992.

On February 8, 1993, the San Benito County Board of Supervisors passed Resolution 93-23, which adopted the provisions of section 155.20 of the Revenue and Taxation Code for the 1993 roll and succeeding years until rescinded. In its current form, this resolution allows real and personal property up to \$2,000 of value to be exempted.

#### E. APPRAISAL DOCUMENTATION

Documentation of the appraisal record is an important function of an assessor's program. Such documentation should include not only a description of the property being assessed but a history of the basis for changes in assessed values. Without such documentation significant effort may be required to reconstruct the record when there is a need to justify or explain how an assessed value was developed. Our review of the assessor's appraisal records from our sampling of the 1994-95 assessment roll and this current office survey revealed that the majority of the records we reviewed were lacking in documentation.

#### SUGGESTION 2: Increase documentation on appraisal records.

Comparable sales used by the county to confirm that the nominal selling price was a valid indicator of current market value were seldom part of the record. In the past comparable sales were part of every appraisal file; however this practice was discontinued several years ago because of staffing shortages.

In reviewing the records of properties with a legal entity change in ownership, we found a leased property for which a revaluation may have been required, but because of a lack of documentation we could not be certain as to the terms of the lease nor PPSD's notification of change in control. In the records of other properties of this type the assessor's staff made a revaluation of each property; however, documentation was, in most instances, inadequate as to the exact reason for the change in value.

A number of possessory interest assessment files we reviewed contained limited or no documentation for capitalization rates, rents, terms of possession, or changes in ownership (lease commencements or termination dates). Such data should be entered on the possessory interest record. Documenting the appraisal file is a necessary first step in valuing the possessory interest. Without such documentation it can be difficult to determine the term of possession, economic rent, date of change in ownership, whether to enroll a supplemental assessment, and other facts essential to a valid assessment. Lease data is also needed in order to properly schedule reappraisal activity under article XIII A. We suggest that a "tickler" file be maintained that lists the termination and renewal dates of all possessory interest contracts and other pertinent facts.

The assessor's staff periodically reviews the taxable values for properties that have factored base year values higher than market values in order to determine whether or not the market values exceed the factored base year value. Our review of these records showed that only a market value estimate is entered on some of the appraisal records. No documentation exists describing how the market value was developed.

We suggest that the assessor instruct his staff to increase the documentation in appraisal records. This would enable the staff to support their taxable values when the need arises without extra effort.

#### F. DISASTER RELIEF

In August 1984 the San Benito County Board of Supervisors passed and adopted an ordinance providing tax relief for taxpayers whose taxable property is stricken by misfortune or calamity; this replaced a previous ordinance adopted in December 1974. The current ordinance enables the county assessor to apply the provisions of Revenue and Taxation Code section 170 to affected properties under the following conditions:

- (1) The total loss in full cash value to land, improvements, and personality must be at least \$5,000 and not the fault of the owner;
- (2) The applicant must notify the assessor within 60 days of such misfortune. If, however, the assessor discovers the damage within six months of the misfortune, the assessor shall provide the last known owner with an application for reassessment. The completed application must then be returned to the assessor within 30 days, but in no instance more than six months after the date of misfortune.

For the assessments we reviewed which had been granted disaster relief, we found that proper procedures were followed. However, the assessor was not aware of all properties eligible for relief.

SUGGESTION 3: Obtain fire reports from all fire departments within the county.

The assessor's staff currently relies primarily on newspaper articles, taxpayer notification, field inspection, and building permits to discover calamities. Another important source for this type of information is fire reports prepared by the various fire departments in the county. We requested fire reports for the period of July 1, 1995 through June 30, 1996 from the City of Hollister Fire Department, the San Juan Bautista Volunteer Fire Department, and the California Department of Forestry and Fire Protection.

The departments furnished us the requested information without delay; however, the Hollister Fire Department only had reports available from November 1995. The Hollister Fire Department and California Department of Forestry fire reports listed 11 structural fires (two were on the same property) with damage estimates exceeding \$20,000. A review of the assessor's records revealed that on four of these properties no action was taken nor was there any reference to a fire.

We suggest that the assessor obtain reports from local fire departments. These reports will notify staff of properties that may need to be reviewed for disaster relief.

### III. REAL PROPERTY ASSESSMENT

#### A. THE APPRAISAL PROGRAM

##### 1. Change of Ownership

###### a. Overview

Our sample survey of the 1994/95 assessment roll contained 61 sample items that were classified as transfers; 12 showed minor to significant differences between the CPTD staff appraisal values and the county's taxable values. In two of these cases, the assessor's value was higher than CPTD's appraised values. For one case CPTD determined that the taxable value under section 51(a) of the Revenue and Taxation Code was the current market value; the assessor agreed. The other overvaluation sample item involved \$1,000 of personal property in the sale price; the assessor's staff enrolled the total selling price, including the personalty, as the base year value of the real estate.

Three sample items with differences involved the valuation of new construction and business properties. Valuation differences on seven undervalued samples involved appraisers' disagreements or professional differences in opinions in values. This does not indicate any particular weakness in the San Benito County Assessor's change-in-ownership program.

Two samples (one classified as a transfer, the other new construction) with under assessments were part of a property that was purchased for approximately \$12.0 million prior to the 1994 lien date. The purchase price, which included equipment and other personal property, was considered market value. Initially the county accepted the grantee's value allocations to real estate and personal property with over \$3.0 million allocated to personal property. The 1994/95 roll we were sampling reflected these value allocations. However, before we started our field work on the samples, the assessor's auditor appraiser completed an audit on this account. He found improvements the taxpayer had classified as equipment, and instead of a value in excess of \$3 million for personalty there was less than \$2 million. The purchase price was then reallocated and the proper taxable values were enrolled back to the transfer date. Our audit of this account supported the county's findings. We commend the assessor and the auditor appraiser for the procedures adopted to correct the error.

There were close to 2,100 recorded documents requiring transfer work during the 1995/96 fiscal year; this is down from about a 2,200 document average for the previous three years. The 2100 documents involved slightly over 3,100 parcels. Fifty-three percent of these 1995/96 documents required reappraisal; historically in this county about 50 percent of the documents requiring transfer work require reappraisal. The continued combined effort of the clerical staff holds the time lag from date of recording to date of processing a document to between two and eight weeks. Partial interest transfers we reviewed were properly processed.

The county recorder's office, as noted in our previous Assessment Practices Survey, obtains Preliminary Change of Ownership Reports (PCOR) for 99 percent of the recorded deeds, leaving only 1 percent of transferees who elect to pay the \$20 fee to record a deed without filing a PCOR. The assessor's office mails a Change in Ownership Statement (COS) to these transferees and if no response is received, follows up with a second and third; the third statement indicates final request. The assessor's staff does not keep a count of non-respondents but staff reported that failure to return a COS is a rare occurrence. One of the many transfers we reviewed was a vacant land sale purchased by a large corporation; they failed to file the first two COS's but returned the third statement, completely filled out, within seven days.

Sales information obtained from the PCOR and COS is compiled and analyzed by the appraisal staff, and their analysis of the data is entered into the mainframe computer. The assessor's sales printout lists: Parcel Number; Grantor/Grantee or Address; Date Sold; Use Code; Sales Price; Zoning; Acres or Lot Size; Per Acre Sales Price; Improvement Description; and General Remarks.

b. Legal Entity Ownership Program (LEOP)

Revenue and Taxation Code section 64(c) provides that a change in control of any legal entity is a change in ownership for property tax purposes of all real property owned by that entity as of the date of the change in control. Consequently, when a change in control meets the requirements as provided in this section, all properties owned by the same entity are subjected to reappraisal.

Changes in control are not recorded in the same manner as other transfers and are not always obvious to the assessor's personnel. The three main sources for discovery of changes in control are: (1) Newspaper articles and Real Estate Periodicals; (2) Business Property Statements (Form AH 571); and (3) Letters to the Assessors from the Legal Entity Ownership Program (LEOP) section of the BOE's Policy, Planning, and Standards Division (PPSD). These letters contain monthly listings of changes in control of all properties located in each county within the State of California. Since January 1982, the PPSD has notified San Benito County of 26 legal entity changes in control affecting 149 individuals parcels.

In the San Benito County Assessor's Office, the assessor personally examines all LEOP letters of notification, then forwards them to the auditor appraiser and the chief appraiser, who makes staff appraisal assignments. Of the 26 legal entity changes reported to the county by PPSD, the assessor, consequent to his personal examination, determined that one change in control did not affected any parcels located in San Benito County but was in fact located in San Diego County.

We compared a list of changes in control supplied by the PPSD with a similar list provided by San Benito County Assessor's Office and reviewed all changes in control affecting San Benito County. With the exception of the one entity control change involving property located in San Diego County, we examined all entity control changes affecting San Benito County. Of these 25 entity control changes only 11 still owned or leased property in San Benito County.

In reviewing the records of these 11 entity changes, we found that one change in control was not properly addressed by the county assessor's staff. This control change involved a leased property for which a revaluation may have been required, but we could not be certain as to the terms of the lease nor PPSD's notification of change in control. Of the remaining 10 entity changes the assessor's staff made a revaluation of each property; however documentation was, in most cases, either insufficient or confusing as to the exact reason for the change in value.

c. Inflation Factors

Revenue and Taxation Code section 51 requires that factored base year values be increased each year by an inflation factor. Revenue and Taxation Code section 75.18 requires that for changes in ownership and completion of new construction occurring between the lien date and June 30 of each calendar year, the new base year value shall be adjusted on the lien date following such an event by the inflation factor specified in subdivision (a) of section 51. For example, a sale on May 1, 1995 for \$100,000, which was accepted by the assessor as market value, should be enrolled at \$102,000 for the 1996-97 assessment roll (assuming that the allowable inflation factor was 2 percent and the market value was greater).

RECOMMENDATION 2: Correct the method of calculating factored base year values by: (1) annually adjusting base year values by the BOE announced inflation factor; and (2) applying the inflation factor to the base year value of real properties and manufactured homes which are revalued because of a change in ownership or new construction that occurs between lien date and June 30 of each calendar year.

In our examination of CPTD's 1994-95 assessment samples and the county's current year appraisal records, we found numerous instances, including manufactured homes, where the assessor's staff failed to include the proper inflation factor for "window period" events as prescribed by section 75.18. The factoring errors occurred when either new construction or transfer values were processed by the appraisal staff.

For those instances where the event took place after 1993 the county has, in most cases, applied their computer code "CPI Code 3", which freezes the new base year value. This procedure prevents the value on the roll from being increased by the inflation factor. The rationale for this practice is that values are not increasing in San Benito County, and that therefore the enrolled value should not be increased.

A better method of handling this situation would be to allow the computer to apply the inflation index to the values on the roll being prepared, then make a value reduction on that roll. This would provide a factored base year value for comparison to current market value. The reduction should be documented on the appraisal record, including comparable sales supporting the decrease in taxable value.

In order to bring the county's current procedures into compliance with Revenue and Taxation Code section 75.18, we recommend that the assessor adjust the new base year value for all events occurring between the lien date and June 30 by the appropriate inflation index to determine the factored base year value for the roll being prepared.

## 2. New Construction

### a. Overview

The CPTD's sampling of the 1994-95 San Benito County assessment roll included 35 samples that were classified as new construction; 22 of these samples were found by CPTD appraisers to have nonconforming values. In six instances, the county's assessed values were higher than CPTD's appraised values, while in 16 instances the county's values were lower. In addition to those 35 samples classified as new construction by the CPTD we also found 27 other samples not classified by CPTD as new construction where there were value differences we attributed to new construction.

The following analysis of the reasons for these value differences indicate that there is no system problem with the assessor's staff's approach to the assessment of new construction. Each of the instances were for relatively minor additions to the base property. The reasons for the value differences are (1) fifteen instances were due to opinion of value, (2) thirty instances were due to escape assessments due to non-permitted construction, (3) two instances involved classification, (4) one instance was due to a factoring error, and (5) one instance involved the base year value and the actual date of completion of new of new construction.

In addition to our appraisal samples, for our office research we randomly selected approximately 150 appraisal files of all types of properties for review. In total this review was the basis for the following recommendations and suggestions.

### b. Assessment of New Construction

The San Benito County assessor's staff has long believed that replacement cost factors developed by the BOE's Policy, Planning, and Standards Division (PPSD) do not accurately represent local value influences in San Benito county even when adjusted by the county location factor. Therefore in 1991 the assessor's staff developed its own local replacement cost factors for residential properties by utilizing information from local contractors and sales of newly constructed residences. These cost factors are actually valuation factors for new residential construction.



Included in these costs are the costs for garages; porches; heating and cooling systems; built-in kitchen appliances; yard improvements such as fences, paving, and flatwork. The assessor's staff has been using these valuation factors exclusively since 1991 on all new construction for houses or house additions. The staff does not consult any other published cost guidebooks, such as the BOE's annual cost factors or Marshall Valuation Service, nor do they use any historical costs.

RECOMMENDATION 3: Revise procedures for assessing new construction by: (1) documenting that valuation factors are reviewed annually and developing more discrete valuation factors, (2) utilizing historical costs, published cost guides, and the comparative sales approach as alternate valuation methods; (3) including landscaping, site preparation, and grading costs in the value of newly constructed properties; and (4) updating construction in progress values on each lien date by revaluing the entire construction in progress.

### Valuation Factors

In our examination of the assessor's building records, we found that there were many limitations in the assessor's staff's application of these valuation factors. These factors were developed from local contractors' reports and sales of newly constructed properties in San Benito county, in 1991. There was no documentation that indicated the valuation factors are reviewed annually. The assessor's staff stated that construction costs have stabilized since 1991 and therefore these valuation factors were still appropriate.

The other problems we found when reviewing the assessor's valuation factors are as follows:

- 1) The cost differential for constructing structures with varying shapes is not considered.
- 2) (a) Size differentials are recognized only for wide size ranges, particularly for very large homes; and  
(b) These cost factors include cost for garages but there is no differentiation for garage size.
- 3) No provision is made for measuring construction quality other than by size of residence.
- 4) No consideration for differences in porch size or number is recognized.
- 5) Fireplace costs are included yet homes of the same quality may lack fireplaces.
- 6) Yard improvements such as fences, paving, and flatwork are included yet the amount of these items can vary considerably, particularly in rural areas.
- 7) The valuation factors were developed from homes served by public water and sewer systems and do not include any additional costs for the wells, well pumps and septic systems for properties not served by public water and sewer systems; the county does not adjust value estimates when wells or septic systems are present.

The use of cost/value factors such as the assessor has developed are useful tools for the appraisal of newly constructed property. However, we recommend the assessor have his staff develop more discrete cost/value factors for new residential construction and annually document that these factors represent current cost/value of new residential construction.

#### Alternate Valuation Methods

There are various methods for valuing new construction; data availability and/or county policy determine which method is used to prepare value estimates. While the comparative sales approach is the preferred approach for valuing new construction, it depends heavily on the availability of data and the technique may be difficult to use to value additions. Alternate methods recommended by the state are the various published cost guides and the use of historical costs.

If comparable sales data and historical costs are not available, published cost factors are the most commonly applied approach in the appraisal of new construction. They are not only applicable to new construction but also to incremental valuation. Their simplicity makes them desirable when time and resources are limited. We believe published cost guidebooks can be very beneficial, particularly in those instances not adequately covered by the utilization of the county's valuation factors.

Historical costs can be a valuable tool in determining the value of new construction. The value of special construction requirements such as architectural services and site stabilization may best be reflected in the use of actual costs by preventing inadvertent omission of assessable construction work.

The San Benito County assessor's staff does utilize, in certain instances, historical costs when valuing commercial, industrial, or rural properties. Many of these historical costs are obtained via business property statements and are especially valuable when construction in progress is considered. We believe the utilization of historical costs should be extended to include residential properties.

**SUGGESTION 4:** Utilize a mailed questionnaire to solicit historical costs of new construction.

In our 1994 survey of San Benito County we made this same suggestion but the assessor has not implemented such a procedure. Although we realize the assessor has limited staff and funds, we believe that a questionnaire on cost of new construction could improve the quality of the value estimate for new construction. We suggest that the assessor's staff implement a cost questionnaire procedure.

### Landscaping, Site Preparation and Miscellaneous Improvements

In CPTD's sample of the 1994-95 San Benito County Assessment Roll, we found 30 cases of escaped assessments. Most of these escapes involved minor items of new construction, i.e., patios, decking, paving, landscaping, and other miscellaneous improvements. Many escapes did not require any building permits while others were construction projects illegally undertaken without permits.

Of the 30 instances of escaped assessments found in the 1994-95 sample, 11 involved landscaping. In San Benito County, it is not generally the practice of the assessor's office to assign a separate value for this type of cost. Because of other priorities, the assessor's staff values landscaping, site preparation, and grading costs only when included in the purchase price of the total property. The installation of landscaping, site preparation, and grading are usually done without a building permit; they are very difficult for the assessor's appraisal staff to discover. In the remaining 19 escapes, we found 7 instances where the disagreement involved the omission of septic tanks and/or wells from the assessor's building records and cost estimate. As we indicated previously, these are property items which are not included in the county's valuation factors for new residential construction.

We believe the assessor should include these types of property items in the cost estimate used for valuation of the total property.

### Construction in Progress

Revenue & Taxation Code section 71 requires that, on each lien date, the construction in progress should be revalued in its entirety. When construction is in progress on the lien date, the appraiser must value the new construction at its market value. The market value estimate should be based on the total project. If, at the next lien date, the construction is still not complete, the construction in progress must again be revalued at current market value. This process will continue until the new construction is complete.

We noted, in a number of building records, that new construction, which extended over a period of two or more years, was valued for successive lien dates with out of date unit cost factors. Additionally, the county revalued only that portion of the new construction completed since the prior lien date. When the new construction was completed, the county added only the value of the construction completed since the prior lien date. This method is not in compliance with the procedures prescribed by Revenue and Taxation Code section 71.

We recommend that the assessor value construction in progress in its entirety on each lien date.

## Building Permits

In San Benito County there are only three agencies that supply building permit information to the assessor's office. Of these, only two, the City of Hollister and the County of San Benito's Building Department, actually issue permits. The City of San Juan Bautista contracts with the County to issue and service their required building permits. Another county agency, the Environmental Health Department of San Benito County, requires and issues permits for wells and septic tanks. These permits are sent to the county building department which performs all inspections, but the department does not send copies of these permits to the assessor's office. None of the permitting agencies require building permits for wooden decks under 30 inches high, landscaping, lawn sprinklers, or flatwork. Also, San Benito County does not require building permits for certain types of agricultural structures.

SUGGESTION 5: Revise building permit procedures by: (1) requesting that copies of all well, septic tank, and mechanical permits be sent to the assessor; and (2) record these types of building permits on appraisal records.

The assessor's current policy does not require copies of wells or septic tank permits be sent to the assessor's office nor does the assessor's staff inquire if any such permits were issued. As mentioned earlier in our discussion of new construction valuation, the costs of wells and septic tanks are not included in the county's valuation factors. Mechanical, electrical, and plumbing permits are often indications of extensive remodeling or may indicate the conversion of an existing building to a different use, which may be assessable new construction.

Our review of the county's building records revealed that the assessor's staff, in most instances, only records major building permits such as a new house. Permits for miscellaneous items of construction are seldom referred to or identified. The recording and investigation of these permits could result in discovery of assessable property not now found by the assessor.

Revenue and Taxation Code section 72 requires agencies that issue building permits to furnish the assessor a copy of each issued permit. We suggest that the assessor's office obtain copies of all permits, including well, septic tank, and mechanical permits issued in San Benito County as a standard part of their procedure for discovering assessable new construction. We also suggest that the assessor's building permit processing be expanded to include recording all permits on the individual appraisal records to maintain record continuity. By implementing these suggestions, we believe that the assessor's staff can discover new construction and improve documentation of property records.

## B. SPECIAL PROPERTY TYPES

### 1. California Land Conservation Act

An agricultural preserve is established by contract between a landowner and the county, pursuant to the California Land Conservation Act of 1965 (CLCA). Lands under contract are valued on the basis of agricultural income-producing ability, including any compatible use income (e.g., hunting, communication facilities, etc.), and are assessed at the lowest of this restricted value, the current market value, or the factored base year value. Revenue and Taxation sections 422 through 430.5 deal explicitly with the valuation of lands subject to agricultural preserve contracts.

The total land area in San Benito County is 893,440 acres; approximately 125,000 acres of the total is government-owned land. For the 1996-97 lien date there were slightly over 582,000 acres in San Benito County encumbered by CLCA contracts. This is equivalent to 76 percent of the county's privately owned land area. Of the 582,000 acres covered by CLCA contract, 3,950 acres were enrolled on the 1996-97 assessment roll at the factored base-year values because that value was lower than the CLCA restricted values. Property in non-renewal status accounted for 18,266 acres. The total taxable value of the land and living improvements on the 582,000 acres was \$124.1 million, or 5 percent of the net secured and unsecured 1996-97 roll value of \$2.515 billion (excludes BOE utility roll value).

Our 1994-95 roll samples included 23 CLCA properties; of these 7 showed minor to significant differences. There were six parcels that were undervalued and one overvalued.

### Procedures

The agricultural preserve assessment program was recently completely computerized in San Benito county. It is a good, user friendly program that includes the annual recalculation of non-renewal values and the comparisons of current restricted values and factored base year values. However, when making comparisons between restricted values and the factored base year values, the program does not include the values of the non-restricted improvements or home sites. We will explain this later in our report.

### Sources of Data

Annually an Agricultural Preserve Questionnaire for each parcel under CLCA is mailed to the property owner. This questionnaire requests information on agricultural and compatible use income, type of property (row crop, grazing, etc.), production on orchards and vineyards, expenses, and new construction. The rental information is compiled and entered into the computer by parcel number and use code indicating the number acres, rent per acre, and general remarks. The rental printout is annually updated and the rural appraisal staff is furnished

with the most current printout. The appraisers also annually update the commodity prices used in arriving at their share rents. They use as data sources the Final Grape Crush Report issued annually by the California Department of Food and Agriculture, and the annual Agricultural Crop and Livestock Report published by the San Benito County Agricultural Commissioner.

RECOMMENDATION 4: Revise the CLCA computerized appraisal program to: (1) deduct a charge for return on and of investment in non-living improvements; and (2) deduct a capital replacement allowance for irrigation wells that contribute to the income being capitalized.

#### Non-living Improvements and Wells

We found through our sampling, and discussions with the assessor's staff, that a charge is not being deducted from the gross rent for return on and of the investment in irrigation systems, and vineyard stakes and trellis. This was briefly discussed in our 1994 survey which indicated an expense was being charged. After further review and discussion with assessor's staff we found this was not the case. For irrigated land, the assessor's staff determines the CLCA land value by applying the appropriate agricultural capitalization rate to what they consider the gross market rent. On vineyards the only expenses deducted from the vine income is the typical cultural and harvest costs normally paid by the land owner, and the income attributable to land for return on investment in land.

The irrigated land and vine income includes income attributed to non-living improvements such as fixed pumps, permanently-installed pipelines, drip irrigation systems, and vineyard stakes and trellises, which in San Benito County are classified as unrestricted non-living improvements. Consequently, if an amount for return on and of the investment in these non-living improvements is not subtracted out of the income, a double assessment occurs. Non-living unrestricted improvements are assessed separately; if they contribute to the gross income of the CLCA property and a charge for return on and of the investment is not deducted, this additional capitalized income creates a double assessment.

Another expense we found not accounted for by the assessor's staff was an allowance for capital replacement for wells that contribute to the earning ability of the land being appraised. Wells may be the sole source of water supply, or used for supplemental water in an irrigation district. They are classified as land for property tax purposes and return on investment is included in the land capitalization rate; nonetheless, they are a wasting asset, and an allowance for capital replacement must be subtracted from the income stream. We recommend using the replacement cost new (RCN) of the well when deriving this allowance, i.e., if the cost of a well on 300 acres is \$60,000 and the estimated life is 25 years, the charge would be \$8 per acre ( $\$60,000 \times 4.0\% / 300 \text{ acres}$ ). Appraisers should be aware that lives on irrigation wells vary greatly. There are areas where wells will produce efficiently 50 or more years, while in other locations wells will require replacement in 10 to 12 years.

We recommend the assessor revise his CLCA computerized appraisal program to deduct allowances for return on and of the investment in non-living improvements and replacement of irrigation wells. The assessor's staff should also determine if there are other expenses the property owner pays such as water, drainage, flood district assessments, irrigation system maintenance, etc., that need to be considered when determining the income to be capitalized.

To calculate the allowances we recommend the chief appraiser initiate and have his staff maintain a data bank on sales derived yield rates. By applying a sales derived yield rate to the value of the investment contributing to the property income, an appropriate allowance can be deducted.

RECOMMENDATION 5: Revise the CLCA assessment program to: (1) use a capitalization premise appropriate to the shape of the income stream when valuing restricted orchards and vineyards; and (2) include proper treatment of home sites and improvements to land.

### Living Improvements

For determining restricted values on orchards and vineyards subject to CLCA contract, the San Benito County Assessor's staff capitalizes the income attributable to trees or vines on the basis of production, remaining economic life, and on a straight-line declining income premise. While the straight-line decline premise may be appropriate for trees and vines that are nearing the end of their economic lives, it is inappropriate for younger trees and vines and can lead to under valuation of living improvements.

As we have pointed out in Assessors' Handbook Section 521A, (August 1990 and previous editions), all living improvements have a similar life cycle: (1) a period of development when production initiates and raises; (2) a period of maturity when production remains stable; and (3) a period of decline when production drops as the improvement nears the end of the economic life. Using a straight-line declining premise to discount such an income stream does not reflect the actual shape of the income stream, and hence the capitalized value of the orchard or vineyard is distorted. We advocate a three-part approach: an increasing annuity, a level annuity, and finally a period of straight-line decline.

We have discussed the assessor's CLCA value procedures on living improvements in previous assessment practices surveys of San Benito County. The assessor's response has been that new plantings of orchards and vineyards are scarce in San Benito County; and he and his staff feel the straight-line decline method best suits this county's orchards and vineyards that are encumbered by CLCA contracts. We reviewed the tree and vine acreage reported in San Benito County's Agricultural Commissioner's annual Crop and Livestock Reports and found: (1) apple orchard productive acreage appears to remain fairly stable; (2) apricot and walnut orchard acreage is declining; (3) cherry orchard productive acreage increased from 377 acres in 1994 to 505 acres

in 1995 (34% increase); and (4) wine grape vineyards increased to 2,125 acres in 1995 from 1,665 acres in 1994 (28% increase). These acreage reports indicate a sizable percentage of the taxable trees and vines in this county are not in a period of decline near the end of their economic lives.

We recommend the assessor revise his method of capitalizing tree and vine income to better reflect the shape of the income stream. This can easily be accomplished on his CLCA computer program.

### Home sites

The San Benito assessor places a restricted agricultural value on a home site area under CLCA contract and adds a factored base year land improvement value to this CLCA value. This violates Revenue and Taxation Code section 428. Even though under Government Code section 51238 residential uses of CLCA restricted land may be considered a compatible use, section 428 precludes such sites from the benefit of restricted land values.

We pointed this out to the assessor and his staff and they indicated they are aware of the problem. The assessor noted that he does report annually on his open space subvention application 1.0 acre home sites on parcels that have a residence. While this action may preclude excessive subventions it does not address the issue of an erroneous taxable value for the home site which should be assessed as not restricted by the CLCA contract.

We recommend that the assessor properly assess residential sites encumbered by CLCA contract under Revenue and Taxation Code sections 110 or 110.1 as required under section 428.

### Land Improvements

We reviewed an agricultural special use property with high valued land improvements (leveling, mounding, etc.). A base year value was established pursuant to article XIII A. However, when calculating the total restricted land value, the assessor's staff added the factored base year value of the land improvements to the restricted land value arrived at by capitalizing an economic land rent. This figure was then enrolled as the total restricted land value.

We believe that this is an incorrect method that does not conform to Revenue and Taxation Code section 423. If the land on which the land improvements are located is under contract, an economic rent should be assigned to the land improvements, and this rent should be capitalized into section 423 restricted value. Generally there is a scarcity of reliable land improvement rental information. We suggest using the market value of the land improvements when deriving an income to capitalize, i.e., if the market value of the land improvements is \$400,000 and the sales derived yield rate is 6.0 percent, the income to be capitalized by the CLCA capitalization rate would be \$24,000 (\$400,000 x 6.0%).



We discussed valuation of land improvements on CLCA restricted land with the assessor's staff. They are of the opinion this is the only property of its kind in San Benito County. We recommend the assessor revise the method of assessing land improvements on CLCA lands to conform with the Revenue and Taxation Code.

### Grazing and Dry Farm Lands

There are about 528,000 acres of grazing and dry farm lands in San Benito County under CLCA contract. Thirteen of our 1994-95 roll CLCA sample items were grazing and dry farm properties. Of these 13 samples, 2 showed differences between the assessor's value and the CPTD's value. CPTD was higher for 1 and lower for 1. These valuation differences between the county and CPTD involved appraisers' judgments (professional differences in opinions of value).

In the late 1960's the current chief appraiser, who is very familiar with San Benito County's grazing and dry farm operations, including production capabilities, delineated the assessor's parcels of all the grazing and dry farm lands in the county on aerial photos. This assisted him greatly in making proper value allocations to areas with different production capabilities as recommended in Assessors' Handbook Section 521, The Appraisal of Agricultural Property. These aerial photos are still functional today, and it would be useful if property lines were to be delineated on current aerial photos.

SUGGESTION 6: Revise the grazing and dry farm land appraisal procedures to: (1) indicate animal unit carrying capacity for the total ranch unit and on each individual grazing land parcel; and (2) create a production, income and expense questionnaire for grazing and dry farm land owners.

### Grazing Lands

The findings in our San Benito County sample appraisal survey of grazing and dry farm lands indicate proper taxable CLCA values are enrolled. One weakness we found is that the appraisers use a per acre rent when valuing open-space dry grazing land. While applying an economic rent per acre is a proper method for many types of agricultural properties, the methodology fails in most cases to recognize the various capabilities and qualities of grazing lands, e.g., ranch units and individual parcels vary in quantity of open land, brush, rock outcrops, quality of feed, etc. Therefore applying just a rent per acre is not recommended when appraising most grazing lands. Information on rental income from grazing lands should be converted to the amount of rent paid per animal unit month (AUM).

Although the market rental rate is stated in dollars per acre, AUM's must be considered when establishing comparability of sold properties or comparing rental income levels for grazing lands. The animal unit is a simple and accurate method for comparing grazing lands. It is the most flexible measuring device for estimating carrying capacity and thus productivity of grazing lands. Assessors' Handbook Section 521 defines the use of animal units when appraising grazing lands.

The assessor's staff are knowledgeable as to the productive capabilities of the grazing lands in the county. In most cases it appears appropriate rents are being applied; however, we suggest the appraisers convert the per acre rents to rent per AUM and document the carrying capacity for the ranch unit, and on each individual parcel. This will enable forthcoming appraisal staff responsible for the valuation of the grazing lands, who are not familiar with the properties, to determine the proper taxable value.

### Production, Income, and Expense Information Questionnaire

The existing questionnaire is well designed for irrigated crop land, orchards, and vineyards; it solicits most of the relevant data in clear language. However, the form does not ask for pertinent information regarding grazing and dry farm production and expenses. We suggest the chief appraiser design a questionnaire solely for the purpose of obtaining information on grazing and dry farm production including compatible use income. This form should ask for the type of grazing operation (i.e., cow/calf, stocker, or both), number of head, months grazed, average weight and gain, supplemental feed required, and rent and expenses. The questionnaire should also be mailed to each grazing and dry farm landowner in the county, regardless of whether their lands are under CLCA contract or not, thus obtaining a broader range of rental data.

### Aerial Photographs

Aerial photos can be a useful tool for appraisal purposes. If the photographs are reasonably current, they can be used to determine acreage on newly planted orchards or vineyards, the acreage and location of orchards removed from an established orchard, or discover new construction (structures or land development) completed without permits.

SUGGESTION 7: Request funding for current aerial photographs.

The most recent aerial photos in the assessor's office are from a flight flown in 1980. We suggest the assessor determine the cost of a current flight for the entire county. Possibly other agencies within the county, such as public works, would be interested in a current flight; this could assist in defraying cost. We suggest the assessor request funding for current aerial photographs covering the entire county.

## 2. Taxable Government Owned Properties

The provisions of article XIII, section 11, of the California Constitution specify that property owned by government agencies, but located outside their boundaries, are taxable if they were taxable at the time of acquisition. Such property is frequently referred to as section 11 property.

Article XIII, section 11, mandates that taxable government owned land in San Benito County have a value that results from the 1967 assessed value of these lands being multiplied by the appropriate factor supplied annually by the BOE. This value is compared to the market value for the current lien date, and the factored base year value. The lowest of these values must be enrolled as the taxable value for that year.

Existing improvements that were taxable when acquired by the government agency and replacement improvements are assessable at the lesser of their current market value, or their full cash value as defined by article XIII A, or the highest value ever used for taxation whichever is less. New construction, except for new improvements that replace previously taxable improvements, is exempt from assessment.

At the time of our survey, San Benito County had twelve section 11 properties on the assessment roll. Of these twelve properties, three of these assessments are for improvements only; they are located on land where city has only an easement. We compared parcel tax rate area codes against the tax rate area index to verify whether listed government owned properties were within specified boundaries. We did not find any section 11 properties escaping assessment. The appraiser assigned to annually value these properties compares the 1967 assessed land values multiplied by the appropriate factor supplied by the BOE and the current market values of the taxable government owned lands. The lower of the two values is enrolled as the taxable value for that year; “full cash value” under article XIII A is not being compared. The section 11 improvements are properly assessed.

RECOMMENDATION 6: Consider article XIII A land values when determining the taxable value of taxable government owned lands.

The California Supreme Court determined in *City and County of San Francisco v. County of San Mateo* (1995) 10 Cal.4th 554 that article XIII A of the California Constitution did not exclude from its valuation limitations taxable lands owned by local governments located outside their boundaries. The court concluded that both article XIII A and article XIII, section 11, could be applied to such lands without conflict.

Prior to the above court decision it was the BOE’s opinion, based on the language in section 11 (b) of article XIII, that only the lower of the appropriately factored 1967 assessed value or the current market value be enrolled as the taxable value. The BOE’s Letter to Assessors 95/48 informed the assessors of the recent court decision and that in light of this decision, it will be necessary for each lien date to enroll the lowest of (1) the 1967 assessed value multiplied by the factor annually supplied by the BOE; (2) current market value; or (3) the full cash value as defined by article XIII A. The letter also states that this decision does not apply to section 11 lands located in Mono or Inyo Counties.

In our review of the section 11 land values, we found three parcels where article XIII A values should have been enrolled as the taxable values. We recommend that the assessor's staff consider article XIII A land values when determining the taxable value of taxable government-owned lands.

### 3. Possessory Interests

A taxable possessory interest (PI) is the right to a private beneficial use of publicly owned real property. The San Benito County Assessor's office assesses less than a hundred taxable PI's. The total 1996 assessed value of all PI's was under \$3,000,000 in taxable value and comprised only a small fraction of the total roll value in San Benito County. Most of the PI assessments are handled by the chief appraiser who annually contacts less than a dozen public agencies to request current information on new or changed tenancies or rents.

Overall, the PI assessment program is adequately administered. However, in reviewing the entire program, we noted two continuing problems for which we recommend that changes be made in order to bring the PI assessment program into better compliance with legal requirements.

In our 1994 survey report, we recommended several changes to the county's assessment practices in regard to PI's. These changes were in the areas of fairgrounds PI's, supplemental assessments, and annual reappraisals that lacked statutory basis. Our current review showed that not all of these changes have been implemented. For this reason, we repeat a portion of our earlier recommendation contained in our 1994 survey of the assessor's office.

RECOMMENDATION 7: Revise the possessory interest assessment program by: (1) processing supplemental assessments for all taxable possessory interests that have changed ownership; and (2) assessing all possessory interests.

#### Processing Supplement Assessments for All PI's That Have Changed Ownership

In both our previous and current assessment practices survey we found that while the assessor's staff is enrolling newly created PI's and those that have been revalued because of a change in ownership on the regular roll, the new value is not entered on the supplemental roll. Revenue and Taxation Code section 75, et seq. requires that a supplemental assessment be enrolled when a change in ownership occurs.

We recommend that the assessor establish a new base year value and make a supplemental assessment for a taxable PI that undergoes a change in ownership.

### Assess All Taxable Possessory Interests

The State of California, Department of Food and Agriculture, Division of Fairs and Expositions, operates county fairs throughout California by acting through local district agricultural associations. The 33rd Agricultural District Association (Association) operates the annual San Benito County Fair and administers the land and buildings at the San Benito County Fairgrounds at Bolado Park.

The Association rents space to groups and individuals, both public and private, for the four days of the fair each year. Although in most cases the Association issues permits for a single year's event, concessionaires are invited to return each year, and in a number of cases, have returned for several consecutive years, indicating there is little likelihood of termination of the permit. The only exceptions to the single event agreements is the carnival operator, who has a three year contract, and the fairgrounds manager who rents a residence on fairground property.

In our 1994 survey report we recommended that, in addition to the fairground manager's residence that staff had previously assessed, the assessor enroll other taxable PI's at the fairground that had escaped assessment. To date, assessor's staff have enrolled only one other PI at the county fairground.

Our preliminary research indicates there are other private uses of fairground land and buildings that are sufficiently durable, beneficial, exclusive, and independent to qualify as a taxable PI. During a normal operating year the fairground management leases portions of fair property to private individuals and organizations. The typical length of use is two days or less. Such usage of fairground property includes dances, pet shows, dealer shows, and a variety of other profitable uses. County fair concessions have the continuity of possession necessary to establish a taxable PI as outlined in Property Tax Rule 22(b)(2), but no assessments have been made for these fairground PI's.

Some uses which qualify as taxable PI's will qualify for exemption from taxation because of various low value exemptions. Other uses may not qualify because they are one-time events with no history or likelihood of recurrence. However, it is likely that there are some interim uses at the fairground that do meet the test of continuity because of their history of recurring use.

We also noted that assessor's staff had exempted three agricultural leases on Hollister Airport property. The assessor's staff referred to a version of Assessors' Handbook Section 517, The Appraisal of Possessory Interests, that cited a superseded section of article XIII that was interpreted to require exemption of all private agricultural interests on publicly owned real property. The most current version of Assessors' Handbook Section 517 clarifies this point and specifies that an exemption for agricultural use is limited to agricultural leases on government owned property that is taxable pursuant to section 11 of article XIII of the State Constitution. None of these three leases is on taxable government owned property.

We recommend that the assessor's staff review all tenancy contracts at the San Benito County Fairground and the Hollister airport, enroll those that qualify as taxable PI's, and issue escape assessments as necessary.

## C. SPECIAL ASSESSMENT PROCEDURES

### 1. Supplemental Assessments

When supplemental values are entered into the computer, a value notice containing a notice of a sixty day interval for filing an assessment appeal is sent to the property owner. If there is no response the value is enrolled. To date there has not been an appeal filed on a supplemental assessment in San Benito County. There were over 1,900 supplemental roll units enrolled on the 1995/96 assessment roll for a total of about \$111.0 million, down from over 2,200 roll units and \$120.8 million in 1994/95. However for 1993/94 there were only slightly more than 1,068 supplemental roll units with a total value of \$61.0 million.

Our overall review of the San Benito County Assessor's supplemental assessment program indicates a well administrated program, including having the form Claim for New Construction Exclusion from Supplemental Assessment available for taxpayers. This exclusion is provided under section 75.12 of the California Revenue and Taxation Code.

### 2. Declines in Value

Article XIII A, section 2(b) of the California Constitution allows the taxable value of real property to be reduced to account for a loss in value after its full cash value base is established. On the lien date, real property must be valued at the lower of its current market value or its factored base year value. This provision of the law is commonly referred to as "Proposition 8," after the ballot number assigned to it in the 1978 general election.

Whenever a property's current market value declines below the factored base year value, that lower value must be enrolled as the taxable value for the years of the decline. If the property's market value subsequently increases above factored base year value, then the factored base year value resumes as the taxable value. Assessment reductions required by Revenue and Taxation Code section 51, the implementing legislation for Article XIII A, section 2(b), may be initiated by taxpayer request and conducted on an individual basis, or the assessor's staff may note a pattern of declining values in a given neighborhood or geographic region within the county and process taxable value reductions for entire neighborhoods.

San Benito County real estate values have been impacted to a significant degree by the recent general recession in California's economy. In the past few years it has been necessary for the assessor and his staff to monitor values for a number of properties as a result of local economic factors. About 10 percent of all parcels have been reviewed and their taxable value reduced below factored base year value; this equates to 1,655 parcels with a taxable value of \$360,715,854 or 15.75 percent of the total secured roll value. Most values affected by the general recession have been for residential properties, particularly the newer subdivisions. Rural properties have also been affected to some degree. We noted that values in a number of grazing PI's were lowered and annually tracked as well.

All properties that have been reviewed and reduced in value are computer listed and tracked. Appraisal records for these properties are tagged in the records files and are easily identified. This insures that the inflation adjustment will not be applied to the enrolled current market value of the property and that for the next lien date the lesser of factored base year value or current market value is enrolled. All monitored parcels are reviewed periodically by appraisers assigned to their geographic areas.

CPTD's sampling of San Benito County's assessment roll contained 45 sample assessments in which the assessor's staff had identified declines in value and reduced roll values accordingly. CPTD's appraisers disagreed with four such values, and agreed with the remaining majority of the county's reductions. From our review it is apparent that the assessor and his staff have done a good job of revaluing and monitoring properties that have suffered declining values.

#### IV. PERSONAL PROPERTY ASSESSMENT

##### A. OVERVIEW

The San Benito County Assessor's Office business property appraisal staff consists of one auditor appraiser and a one-half position assessment clerk. This section is responsible for the appraisal of 2,058 commercial, industrial, or agricultural properties, 175 general aircraft, and 554 pleasure boats. We commend the assessor and his staff for their continuing efforts to improve their business property assessment program.

Although there is no legal requirement to audit smaller businesses, no audit program is complete unless it includes a representative sampling of all sizes and types of accounts. San Benito county has not only completed all mandatory audits, but also implemented a nonmandatory program. In the 1996-97 budget, the assessor is adding a position in the business property staff; the function of this position is to expand the nonmandatory audit program.

##### B. BUSINESS PROPERTY ASSESSMENT

The CPTD's sampling of the county's 1994-95 assessment roll included 32 secured and unsecured business property assessments. For 18 of those sampled items, county assessed values differed from the appraised values determined by CPTD staff. Specifically, the local roll values exceeded appraised values for seven sample items, while for eleven samples the CPTD values were higher.

Twelve of the sample items involved differences in estimates of service lives and full value factors. Full value factors are the products of percent good factors and replacement costs indices. The reason for these differences is that the assessor's staff does not use the factor/indices groups in Assessors' Handbook Section 581 individually as intended but instead averaged certain groups and applied those averages to all industries throughout the county.

Value differences for five other sample items were caused by taxpayer reporting problems. The best way for any county assessor to correct this problem of taxpayer underreporting is to increase audit coverage, especially of nonmandatory accounts.

The remaining value differences were caused by procedural exceptions, varying appraisal judgments, and other areas of disagreement between the CPTD and the assessor's staff. We did not find these remaining differences indicated any major program deficiencies.

##### C. AUDIT PROGRAM

One objective of the audit program is to ensure proper reporting on the annual business property statements. A major objective of the nonmandatory audit selection system is to audit those accounts which will produce value changes. When nonmandatory audit productivity data are compiled, statistical probability that an audit will be productive can be determined and should be the basis for audit selection. For example, when choosing which of two accounts to



audit, one of which exhibits the general characteristics of a no-change account, the county's first choice should be the other account where a change is likely to occur. Those accounts showing little or no likelihood of value changes should be considered low-priority accounts and deferred. In addition, special problem accounts uncovered during the year should be flagged and included in this program.

1. Mandatory Audits

Our review of the mandatory audits in the San Benito County Assessor's Office showed them to be well documented, comprehensive, and easy to follow. The assessor's staff schedules and performs their audits timely.

2. Interest Calculations

RECOMMENDATION 8: Forward only the escaped value to the county auditor for calculation of the change in tax liability, interest, and penalties; include the statutory citation that authorizes the escape assessment.

In the San Benito County Assessor's Office, when an auditor discovers a difference between the audited value and the original assessed value, the auditor appraiser determines the differences in assessment (including penal assessment) and calculates the taxes, interest, and penalties based on the assessment difference. This amount is submitted to the county auditor and is billed to the taxpayer without further review or verification by the auditor's office.

The computation of taxes, interest and penalties by the assessor's office compromises the separation of official functions outlined in the Revenue & Taxation Code sections 2612.6 and 2824. Clearly, the assessor's statutory authority includes the determination of assessed value (including penal assessment), while the county auditor's responsibility includes determination of tax liability and interest.

CPTD staff made this same recommendation in the last survey. We again recommend that the assessor submit roll changes to the county auditor for calculation of the tax liability, interest, and penalties resulting from the escaped assessment.

3. Audit Checklist

Whether simple or complex, audits generally follow certain steps to ascertain the validity of reported figures and other information. Formal audit procedures and a checklist detail the pertinent points covered during audit. The checklist acts as a reminder for the auditor appraiser and as documentation to the reviewer that certain points were covered during the audit. The checklist, along with the audit narrative, provide valuable information for further questions, audit review, and future audit preparation.

SUGGESTION 8: Create formal written audit procedures and require the use of an audit checklist in every audit.

San Benito County does not have formal written audit procedures and does not use an audit checklist. Although their audit worksheets are detailed and thorough, audit items such as change in ownership, capitalization policy and other pertinent information may be omitted because of the lack of a checklist. We suggest that the San Benito County auditor appraisers create formal written procedures and use a checklist on every audit. It will improve the thoroughness and consistency of the audits.

#### D. BUSINESS PROPERTY VALUATION

The CPTD sampling of the San Benito County Assessor's local roll for 1994-95 revealed significant valuation differences that result from the assessor's staff's practices relating to price trending factors and economic lives. CPTD sampled 32 business property statements; the assessed values for eight accounts were understated and four were overstated.

##### 1. Equipment Index factors

The BOE annually publishes equipment price index factors which are used to compute current replacement costs when applied to historical costs. Assessors' Handbook Section 581, Equipment Index Factors, contains 12 index factor categories for commercial equipment and six index factor categories for industrial equipment. Our review noted that these indices are being improperly applied in the San Benito County Assessor's Office.

RECOMMENDATION 9: Use the equipment index factors as recommended in Assessors' Handbook Section 581.

Our review noted that the assessor's staff uses only one factor for commercial equipment, one factor for industrial equipment and two factors for agricultural equipment. The commercial equipment factor is an arithmetic average of seven of the twelve commercial equipment factors in Assessors' Handbook Section 581. The industrial equipment factor is an arithmetic average of five of the six industrial equipment factors in the handbook.

The actual effect of using average, instead of individual price indices, is difficult to determine. To determine the effect would require quantifying assets by category and by year of acquisition for all business property accounts in the county. The consequence of using average factors as developed by the San Benito County Assessor is that some classifications of equipment will be over assessed, some under assessed, and some correctly assessed. The equipment index factors contained in the Assessors' Handbook result in a level of assessment found to be reasonable and supportable by most assessors and taxpayers. Because there is a wide range of price index factors, it is important that the assessor's staff carefully select the appropriate table. While overall totals may show only a small difference if the indices are averaged, the accuracy of the individual appraisals may be distorted because averaging indices sacrifices accuracy.

## 2. Estimated Assessments

Nonfiling business entities cause special problems for the business division in any county assessor's office. Since no data is reported by the taxpayer, the county assessor's staff must generate a roll value based entirely upon an estimate. This is done by relying upon Revenue and Taxation Code section 501, which states:

...If after written request by the assessor, any person fails to comply with any provision of the law for furnishing information required by sections 441 and 470, the assessor, based upon the information in his possession, shall estimate the value of the property and based upon this estimate, promptly assess the property.

SUGGESTION 9: Audit or visit taxpayers for whom estimated assessments have been enrolled for three or more consecutive years because of the taxpayers' failure to file the required property statements.

The auditor appraiser in the San Benito County Assessor's Office usually makes an estimated assessment by adding to the prior assessment a current year additions value and a 10 percent penalty for failure to file. This process is intended to adequately cover the value of any unreported property and also to persuade the taxpayer to comply with the reporting requirement.

Although the practice of increasing estimated assessments for each year in which no business property statement is filed is not excessive, it does not completely eliminate the problem of taxpayers who fail to file business property statements. This practice should be limited to three roll years. We suggest that after this length of time, nonfiling taxpayers be scheduled for audit or at least a personal visit to their place of business. During such a visit, the auditor appraiser could physically inspect the taxpayer's business property and make a preliminary estimate of its condition and value.

## 3. Supplemental Assessments of Leasehold Improvements

Whenever a taxpayer reports costs for leasehold structural improvements on Schedule B of the business property statement, such structural additions that qualify as new construction should be subject to supplemental assessment. Because the assessment of such leasehold improvements is a procedure involving detailed record keeping for proper tracking of base years and ownership, close cooperation between the business property section and real property section is essential.

SUGGESTION 10: Develop and maintain a written procedure for the supplemental assessment of structural additions that are leasehold improvements.

San Benito county does not have a written procedure for any communications on this topic from the business property section to the real property section. The assessor should develop a written procedure addressing the process for controlling the assessment of leasehold improvements.

#### 4. Classification

Revenue and Taxation Code section 105 states that the category of property known as “improvements” includes property described as a structure and property described as a fixture. The California Code of Regulations, Property Tax Rules, Rule 463(c) defines a fixture as an improvement whose use or purpose directly applies to or augments the process or function of a trade, industry, or profession.

The significance of this Rule 463(c) definition is found in Revenue and Taxation Code section 51(d), Property Tax Rule 461(d) and Revenue and Taxation Code sections 75.5 and 75.15. Section 51(d), for the purpose of determining real property taxable value, defines an appraisal unit as being the property that persons in the marketplace commonly buy and sell as a unit or that is normally valued separately. Rule 461(d) requires that fixtures and other machinery and equipment classified as improvements be considered a separate appraisal unit when measuring a decline in market value below factored base year. Sections 75.5 and 75.15 address the treatment of fixtures on the supplemental assessment roll. To properly implement these provisions of assessment law it is necessary to properly classify an improvement as either a structure or a fixture.

RECOMMENDATION 10: Classify certain service station improvements as fixtures.

In San Benito County, all service station improvements at a location are assessed as a single unit with no differentiation between structure and fixture improvements. All service station improvements at a location are classified as structure improvements.

As discussed in Letter to Assessors 92/27, real property items such as tanks, dispensers, hoists, and air/water stations that directly augment the service station trade should be classified as fixtures. The county currently classifies these types of items as structural improvements. These fixtures should be valued and assessed as a separate appraisal unit in order to properly determine whether or not market value is less than factored base year value and in order to properly implement the supplemental assessment roll provisions.

We recommend identification, segregation, and classification of service station improvements into the appropriate structure or fixture categories.

## E. NONBUSINESS PROPERTY VALUATION

### 1. Vessels

Pleasure boats were represented by three sample items in CPTD's sampling of the 1994-95 assessment roll. There were no differences noted in comparing CPTD valuations to the county's value. San Benito has a good review program on boats and aircraft.

However, we did note one problem with the vessel assessment program. Revenue and Taxation Code section 463 specifies a penalty that is to be imposed for a taxpayer's failure to file a required property statement. Only property statements that have been prescribed by the BOE are subject to this penalty. The Vessel Owner's Report (VOR) form used by the San Benito assessor is not prescribed by the BOE.

RECOMMENDATION 11: Seek to have the BOE designate the Vessel Owners Report as a prescribed property statement for pleasure boats.

When a boat changes ownership or attains situs in San Benito County, a VOR form is mailed to the owner requesting pertinent information necessary for assessment. The VOR is an effective assessment tool. However, the penalty assessment cannot be made for failure to file this particular form even though the form implies a penalty may be assessed. If the county intends to invoke the penalty statute for failure to file this VOR form, we recommend the county have the BOE designate the VOR form as a prescribed form for pleasure boat property statements.

### 2. Manufactured Homes

A property item described in Health and Safety Code sections 18007 and 18008 as a manufactured home/mobile home (MH), is defined, for property tax assessment purposes, in Revenue and Taxation Code section 5801 as personal property if the MH is not on a permanent foundation. If the MH is on a permanent foundation, section 5801 defines it as real property, which precludes it from characterization as a MH for property tax assessment purposes.

Although section 5801 became effective January 1, 1992, it was not implemented by the San Benito County Assessor until the 1993-94 roll year. For the 1996-97 roll year San Benito county assessed 281 MH's in various locations throughout the county. Of this total, approximately 110 are located in the two major rental parks in the county with most of the remainder scattered on rural sites.

Most of the assessment provisions relating to personal property are not applicable to the assessment of MH's. The primary differences between the taxation of manufactured homes and other items of personal property are (1) the assessment is entered on the secured roll; (2) the tax may be paid in two installments; (3) a base year value is determined on the date the MH changes ownership unless the ownership change is between vendors in which instance the MH remains business inventory and is exempt from assessment; (4) the taxable value is limited to the lower of current market value or the factored base year value; and (5) a MH that has a change in

ownership or new construction is subject to supplemental assessment. These special assessment provisions are specified in Revenue and Taxation Code sections 5800, et seq.

We reviewed the appraisal records of several assessments for properties that would be characterized as MH's by Health and Safety Code sections 18007 and 18008 that the assessor classified as either personal or real property. They were located both in rental parks and on individual parcels. Our review indicated that there were several inconsistencies and omissions by the county in the assessment of MH's.

RECOMMENDATION 12: Revise manufactured home assessments by: (1) making adjustments for site influence to selling prices of manufactured homes; (2) developing a program to periodically compare the factored base year values and the current market values of all assessable manufactured homes; and (3) assessing all taxable manufactured home accessories.

#### Adjustments to Selling Prices of Manufactured Homes

Revenue and Taxation Code section 5803(b) requires that the full cash value of a MH not include any value attributable to the particular site where the MH is located when that site is rented or leased land. When the selling price of a MH in a rental park includes an increment (positive or negative) of value attributable to the physical site where the MH is located, that increment of site value should not be included in the base year value of the MH.

Our review of the assessments of MH's located in rental parks revealed that the assessor's staff does not adjust nominal sale prices for site value. In most cases, it is the policy of the assessor's staff to value manufactured homes in rental parks at the full reported selling price with little if any adjustments. We found no indication that the assessor's staff has made studies to determine a proper site value influence located on leased or rented sites.

Without an appropriate study it becomes very difficult for the assessor's staff to properly evaluate the need for a site value adjustment. Sales and listings should be grouped by the appropriate mobile home park and include the make, model, age, size, etc., of each manufactured home plus any accessories which may be included in the sale. By compiling a study, the appraiser will be able to evaluate whether or not a site adjustment is warranted.

If the information included in the study is inadequate for such adjustments, other methods are available. Replacement cost estimates using the PPSD cost guides are also an appropriate method for estimating external contributions to the selling price. Revenue and Taxation Code section 5803(b) recommends that, in determining site value influence, the assessor consider, among other relevant factors, sale prices listed in recognized value guides for manufactured homes, including but not limited to the Kelly Blue Book Manufactured Housing and Mobile Home Guide and the National Automobile Dealer Association's Mobile Home Manufactured Housing Appraisal Guide.

Therefore, we recommend that the assessor's staff incorporate into their manufactured home assessment program a technique that allows for evaluation of the need to adjust nominal sale prices of MH's for site value influence. Whatever method the assessor's staff utilizes, any value influence attributable to a MH's location on rented land is not assessable; the statutory requirement of section 5803 must be recognized when using sale prices as indicators of taxable value.

#### Compare the Factored Base Year Values and the Full Cash Values

Revenue and Taxation Code section 5813 requires the taxable value of a MH be the lesser of the factored base year value or the full cash value. Property values in many areas of California have declined or stagnated as a result of recent economic conditions. In 1990 the assessor realized that real property values had peaked and were beginning to decline. Starting with the 1991-92 assessment year, the assessor's staff reviewed sales of MH's and for many MH's reduced the taxable value below the factored base year value. In our examinations of various MH records, we observed inconsistencies in these value changes.

The value reductions for the 1991-92 roll year, which were continued for the 1992-93 roll year, were implemented in only one of the major rental parks. In this same park additional reductions were made for the 1993-94 roll year; these reduced values were continued for succeeding roll years through 1996-97. For all other MH assessments, except for those instances in which a request for reduction was received, the assessor did not make taxable value reductions other than by not increasing the factored base year values for the 1995-96 and 1996-97 roll years.

We recommend that the assessor develop an updated sales program that reflects the current market values and apply the appropriate adjustments to the factored base year values of all manufactured homes.

#### Manufactured Home Accessories

Health and Safety Code section 18008.5 defines MH accessories as any portable, demountable, or permanent awning, a cabana, a ramada, a storage cabinet, a carport, skirting, a heater or cooler, a fence, a windbreak, or a porch established for the use of the occupant of the MH, or other equipment as defined by Civil Code section 1797.3. Some MH accessories may not be subject to property taxation because they are subject to the in lieu vehicle license fee (VLF). Revenue and Taxation Code section 5805 states that MH accessories on a MH first sold prior to July 1, 1977 and located on a rented site are presumed to be subject to a VLF if the MH is subject to a VLF. Accessories installed on a MH sold after that date are always subject to property taxation even if the MH is subject to a VLF; this is because the accessories were never subject to a VLF.

The assessor's staff does not assess MH accessories installed subsequent to January 1, 1977 which are appurtenant to licensed MH's (which are not subject to property tax assessment) even though the accessories may have a full cash value exceeding \$2,000 which is the value limit of the county's property tax exemption for low value property.

We recommend that these accessories subject to property taxation with an assessable value in excess of \$2,000 be assessed.



## THE ASSESSMENT SAMPLING PROGRAM

The need for compliance with the laws, rules, and regulations governing the property tax system and related assessing<sup>1</sup> activities is very important in today's fiscally stringent times. The importance of compliance is twofold. First, the statewide maximum tax rate is set at 1 percent of taxable value. Therefore, a reduction of local revenues occurs in direct proportion to any under valuation of property. (It is not legally allowable to raise the tax rate to compensate for increased revenue needs.) Secondly, with a major portion of every property tax dollar statewide going to public schools, a reduction in available local property tax revenues has a direct impact on the State's General Fund, which must back fill any property tax shortfall.

The Board of Equalization (BOE) , in order to meet its constitutional and statutory obligations, focuses the assessment sampling program on a determination of the full value of locally taxable property and eventually its assessment level. The purpose of the BOE's assessment sampling program is to review a representative sampling of the assessments making up the local assessment rolls, both secured and unsecured, to determine how effectively the assessor is identifying those properties subject to revaluation and how well he/she is performing the valuation function.

The assessment sampling program is conducted by the BOE's County Property Tax Division (CPTD) on a five-year cycle and described as follows:

- (1) A representative random sampling is drawn from both the secured and unsecured local assessment rolls for the counties to be surveyed.
- (2) These assessments are stratified into three value strata<sup>2</sup>, identified, and placed into one of five assessment categories, as follows:
  - a. Base year properties -- those properties the county assessor has not revalued for either an ownership change or new construction since the previous CPTD assessment sampling.
  - b. Transferred properties -- those properties where a change in ownership was the most recent assessment activity since the previous CPTD assessment sampling.

---

<sup>1</sup> The term "assessing" as used here includes the actions of local assessment appeals boards, the boards of supervisors when acting as boards of equalization, and local officials who are directed by law to provide assessment-related information.

<sup>2</sup> The three value strata are \$1 to \$199,999; \$200,000 to \$1,999,999; and \$2,000,000 and over.

- c. New construction -- those properties where the most recent assessment activity was new construction added since the previous CPTD assessment sampling.
  - d. Non-Proposition 13 properties -- those properties not subject to the value restrictions of article XIII A.
  - e. Unsecured properties -- those properties on the unsecured roll.
- (3) From the assessment universe in each of these fifteen (five assessment types times three value strata) categories, a simple random sampling is drawn for field investigation which is sufficient in size to reflect the assessment practices within the county. (A simple non stratified random sampling would cause the sample items to be concentrated in those areas with the largest number of properties and might not adequately represent all assessments of various types and values.) Because a separate sample is drawn from each of these assessment types and value categories, the sample from each category is not in the same proportion to the number of assessments in every category. This method of sample selection causes the raw sample, i.e., the "unexpanded" sample, to over represent some assessment types and under represented others. This apparent distortion in the raw sampling is eliminated by "expanding" the sample data; that is, the sample data in each category is multiplied by the ratio of the number of assessments in the particular category to the number of sample items selected from the category. Once the raw sampling data are expanded, the findings are proportional to the actual assessments on the assessment roll. Without this adjustment, the raw sampling would represent a distorted picture of the assessment practices. This expansion further converts the sampling results into a magnitude representative of the total assessed value in the county.
- (4) The field investigation objectives are somewhat different in each category, for example:
- a. Base year properties -- for those properties not revalued since the previous CPTD assessment sampling: was the value properly factored forward (for the allowed inflation adjustment) to the roll being sampled? was there a change in ownership? was there new construction? or was there a decline in value?

- b. Transferred properties -- for those properties where a change in ownership was the most recent assessment activity since the previous CPTD assessment sampling: do we concur that a reappraisal was needed? do we concur with the county assessor's new value? was the base year value trended forward (for the allowed inflation adjustment)? was there a subsequent ownership change? was there subsequent new construction? was there a decline in value?
  - c. New construction -- for those properties where the most recent assessment activity was new construction added since the previous CPTD assessment sampling: do we concur that the construction caused a reappraisal? do we concur with the value enrolled? was the base year amount trended forward properly (for the allowed inflation adjustment)? was there subsequent new construction? or was there a decline in value?
  - d. Non-Prop 13 properties -- for properties not covered by the value restrictions of article XIII A, do we concur with the amount enrolled?
  - e. Unsecured properties -- for assessments enrolled on the unsecured roll, do we concur with the amount enrolled?
- (5) The results of the field investigations are reported to the county assessor, and conferences are held to review individual sample items whenever the county assessor disagrees with the conclusions.
  - (6) The results of the sample are then expanded as described in (3) above. The expanded results are summarized according to the five assessment categories and by property type and are made available to the assessment practices survey team prior to the commencement of the survey.

The primary use of the assessment sampling is to determine an assessor's eligibility for the cost reimbursement authorized by Revenue and Taxation Code section 75.60. During the course of the sampling activity, the assessment practices survey team may also discover recurring causes for the differences in the opinion of taxable value that arise between the assessor and the County Property Tax Division. These discoveries may lead to recommendations in the survey report that would not have otherwise been made.

ASSESSOR'S

RESPONSE

TO

BOARD'S

RECOMMENDATIONS

ARNOLD R. FONTES  
County Assessor

OFFICE OF THE ASSESSOR

**COUNTY OF SAN BENITO**

440 FIFTH STREET, ROOM 108  
HOLLISTER, CALIFORNIA 95023-3893

Office Phone  
408-636-4030  
Office Fax  
408-636-4033

January 16, 1998

Mr. William B. Jackson, Chief  
County Property Tax Division  
State Board of Equalization  
P. O. Box 942879  
Sacramento, CA 94279-0062

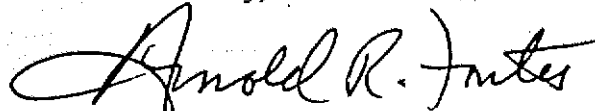
Dear Mr. Jackson:

Pursuant to Section 15645 of the California Government Code, the following constitutes the Assessors Response to the recommendations presented in the Assessment Practices Survey of San Benito County for the 1994-95 assessment roll.

As specifically indicated on page 4 of the report, staffing reductions to 10 positions for the 1993-94 year (26% reduction from 1991-92), severely impacted the preparation and quality of the 1994-95 roll which was completed late on August 1, 1994 and then became the sample year for this report. This coincidence in timing, together with being a high growth county, was to our disadvantage and thanks must be handed out to a diligent and hard working staff who struggled to produce this 1994-95 assessment roll.

I wish to thank you and the survey team for the professional manner in which the survey was conducted.

Sincerely,



Arnold R. Fontes  
County Assessor

RECOMMENDATION 1: Cite the proper Revenue and Taxation Code sections when making corrections to the assessment roll.

Response: Occasionally, errors have been made in citing the proper Revenue and Taxation Code sections when making corrections to the assessment roll.

We are in the midst of computerizing the roll correction process which should reduce errors, thereby, minimizing the use of improper code sections.

RECOMMENDATION 2: Correct the method of calculating factored base year values by: (1) annually adjusting base year values by the BOE announced inflation factor; and (2) applying the inflation factor to the base year value of real properties and manufactured homes which are revalued because of a change in ownership or new construction that occurs between lien date and June 30 of each calendar year.

Response: 1) Pursuant to Revenue and Taxation Code section 51, we do annually adjust all base year values by the BOE announced inflation factors except for those instances described in (2).

2) We agree that the inflation factor should be applied to all changes of ownership or completion of new construction taking place between the lien date and June 30 of each calendar year.

Due to staffing reductions, workload increases and a declining real estate market at that time, we decided not to use the inflation factor since this would result in over-valued properties that would subsequently have to be reduced by a "Prop. 8" adjustment or by the assessment appeal process costing additional staff time and money.

We have discontinued this practice and all "window period" events are now being factored as prescribed by section 75.18.

RECOMMENDATION 3: Revise procedures for assessing new construction by: (1) documenting that valuation factors are reviewed annually and developing more discrete valuation factors; (2) utilizing historical costs, published cost guides, and the comparative sales approach as alternate valuation methods; (3) including landscaping, site preparation, and grading costs in the value of newly constructed properties; and (4) updating construction in progress values on each lien date by revaluing the entire construction in progress.

Response: 1) We will continue our annual review of the valuation factors used to value new residential construction. In addition, appropriate documentation will be developed to insure that these value factors are more discrete and represent current cost/value of the new construction.

2) Although our records sometimes don't document the use thereof, we have always used these alternate valuation methods when appropriate.

3) In most instances, these items are included in our valuation factors since these factors are derived from sales of properties which include landscape, site preparation and grading costs. However, we will make a better effort to make sure these items are assessed.

4) We agree that construction in progress should be re-valued in its entirety on each lien date and we will annually review these projects subject to evidence that the "in progress" current market value has changed.

RECOMMENDATION 4: Revise the CLCA computerized appraisal program to: (1) deduct a charge for return on and of investment in non-living improvements; and (2) deduct a capital replacement allowance for irrigation wells that contribute to the income being capitalized.

Response: 1) We agree that charges for the return on and of investments in non-living improvements should be deducted from the income to be capitalized and plan to implement a program to correct this situation.

2) This will also be corrected as indicated in (1) above.

RECOMMENDATION 5: Revise the CLCA assessment program to: (1) use a capitalization premise appropriate to the shape of the income stream when valuing restricted orchards and vineyards; and (2) include proper treatment of home sites and improvements to land.

Response: 1) We feel the straight-line declining premise to discount the income stream when valuing restricted orchards and vineyards is still applicable to San Benito County since these living improvements have been in steady decline for many years and new plantings are indeed scarce. The example of the 588 acre increase in cherries and wine grape vineyards from 1994 to 1995 does not indicate a sizable percentage of the taxable trees and vines in the county are not in a period of decline. Actual tree and vine acreage in the county has decreased from 15,600 acres in 1974, to 12,500 acres in 1984 and 8,700 acres in 1994 substantiating our reasoning for using the straight line method to discount the income stream.

2) We plan to correct the treatment of home sites and will take a closer look at the valuation of land improvements on CLCA restricted land when they occur.

RECOMMENDATION 6: Consider article XIII A land values when determining the taxable value of taxable government-owned lands.

Response: We concur and will consider Article XIII A value when assessing taxable government-owned lands.

RECOMMENDATION 7: Revise the possessory interest assessment program by: (1) processing supplemental assessments for all taxable possessory interests that have changed ownership; and (2) assessing all possessory interests.

Response: 1) It is very difficult and time consuming to determine when possessory interests actually change ownership due to the complexity of tracking down and receiving the necessary information from each respective public agency. We will attempt to process those supplemental assessments when our staffing levels will allow us the time to verify these change of ownership dates.

2) We will further review those potential possessory interests at the San Benito County Fairground and Hollister Airport and enroll those that qualify as taxable possessory interests.

RECOMMENDATION 8: Forward only the escaped value to the county auditor for calculation of the change in the tax liability, interest, and penalties; include the statutory citation that authorizes the escape assessment.

Response: We concur. Our computerizing of the roll correction process will automatically provide the county auditor the necessary information for the calculation of the tax liability, interest and penalties along with the proper statutory citation that authorizes the escape assessment.

RECOMMENDATION 9: Use the equipment index factors as recommended in Assessors' Handbook Section 581.

Response: As indicated, we do use the equipment index factors as recommended in Assessors Handbook Section 581 as the basis for the preparation of our own factors. Averaging the factors produces some 20 factor charts, whereas the use of the recommendation would generate some 90+ charts with the actual effect difficult to determine with unknown results.

The use of these additional factors would be of little benefit to our assessment program and would add confusion, contribute to errors in selecting the correct factor chart and take more time to administer.



RECOMMENDATION 10: Classify certain service station improvements as fixtures.

Response: This recommendation is very difficult to achieve and is not cost or time effective. Taxpayer reporting does not normally provide us with the necessary information to separate the fixture items from the structure improvements. In most instances an audit of both the real and personal property is necessary to properly identify and classify these fixtures.

As time permits, we will review our assessments on service stations and attempt to correct the situation.

RECOMMENDATION 11: Seek to have the BOE designate the Vessel Owners Report as a prescribed property statement for pleasure boats.

Response: We have made changes to our form deleting the penalty provisions and do not intend to invoke the penalty statute for failure to file this form.

RECOMMENDATION 12: Revise manufactured home assessment by: (1) making adjustments for site influence to selling prices of manufactured homes; (2) developing a program to periodically compare the factored base year values and the current market values of all assessable manufactured homes; and (3) assessing all taxable manufactured home accessories.

Response: 1) We plan to continue tracking mobile home sales and when this process reveals the existence of measurable site value influence, we will adjust for it.

2) The mobile home assessments are included and part of our "Prop. 8" value adjustment program which is reviewed annually.

3) As most accessories are now part of the original purchase and assessed as such, there are not many other accessories which could only be assessed if these items exceed our \$2,000 low value property exemption. Physical inspections would be required to locate all accessories to determine those that exceeded \$2,000 in value. This would be extremely time consuming and not cost effective.